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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.1083 OF 2004

The Commissioner of Income Tax ..Appellant.

V/s.

M/s.Kamlashankar P.Joshi & Co. ..Respondent.

Mr.A.S.Rao for appellant.

Mr.S.S.Shetty for respondent.

CORAM : F.I.REBELLO AND
J.P.DEVADHAR, JJ.

DATED : 16TH OCTOBER, 2007.

P.C. :-

The Tribunal, considering the facts of the case, held that it would not be a fit case for levying the penalty for technical violation as contained in section 269SS of the I.T. Act and accordingly, set aside the order. From the facts on record, it emerges that Smt.Suman Joshi and Deepvijay Trading Co. had drawn cash from their account and deposited the same in the bank account of the firm in cash and subsequently obtained a pay order from the bank account of the firm in favour of the Reserve Bank of India. Though technically this may be an offence, yet there is power conferred on the authority under section 273B. Once there is a power and considering the fact that the Tribunal exercised that power, it would not be a fit case to entertain the appeal. Appeal is, therefore, dismissed.

(J.P.DEVADHAR, J.) **(F.I.REBELLO, J.)**